THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 23085 OF 2006

Between :

T. Prabhakar Rao
R/o Kamanpur Village,
Karimnagar District.

… Petitioner

And :

Government of Andhra Pradesh
Rep. by its Chief Secretary, Hyderabad
And others.

… Respondents

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ORAL ORDER :

Heard learned counsel for the petitioner and learned Government Pleader for Irrigation and the writ petition is disposed of at the stage of admission duly considering the averments in the writ petition and the several counter affidavits filed on behalf of the respondents.

The undisputed facts are that the petitioner's land in an extent of Ac.0.31 gts, in Sy.No. 66 and Ac.1.33 gts, in Sy.No. 67 of Rajapur (Gundaram) village, Kamanpur Mandal, Karimnagar District was illegally taken possession of by several State actors unlawfully exercising public office, on 1.5.1979. To regularize this illegal activity of persons in public office, the State issued a Notification u/Sec.4(1) of the Land Acquisition Act 1894 ('the Act') on 21.6.1983 (4 years later). The land was ostensibly

acquired for excavating a canal.

An award was passed determining the market value at Rs.10,000/- per Acre. Aggrieved, the petitioner sought reference u/Sec.18 to the Civil Court. By the order and decree dated 13.11.1997, OP No. 17 of 1991 was disposed of by the Subordinate Judge, Peddapalli, enhancing the market value to Rs.16,000/- per acre. The petitioner was also held entitled to other statutory benefits. The decree became final. From 1997 till 2006 the State and its several agencies failed to take any steps to pay compensation to the petitioner which as per the decree of the reference court is a charge on the Consolidated Fund of the State u/Art. 202 of the Constitution.

For execution of the decree of the reference court in OP No.17/91, the petitioner filed E.P.No. 26 of 2005. The E.P. was adjourned from time to time at the instance and request of the respondents who consistently, inexplicably and therefore illegally failed to satisfy the decretal debt in OP No.17/91 and relentlessly besmirched the reputation of a constitutional Government by abdicating on a constitutionally ordained obligation to satisfy a court's decree. Almost loosing faith in the statutory process of execution, the petitioner filed this writ petition seeking a declaration that the action of the respondents in not depositing the decretal liability to the credit of the E.P. is illegal and arbitrary.

This court by an interim order dated 18.11.2006 directed the respondents to deposit the entire amount due and payable by the award and decree in OP No.17/91, to the credit of E.P.No. 26/05 on or before the closing of the court hours on 21.11.2006 and to report compliance of the order by a duly sworn affidavit of the 2nd respondent on 22.11.2006.

On 22.11.2006 a counter affidavit was filed by the 2nd

respondent stating that the amounts due and payable qua the award in OP No.17/91 was deposited to the credit of E.P.No. 26/05 by a cheque dated 21.11.2006 for Rs.1,04,562/-. As the amount deposited was disputed by the learned counsel for the petitioner and the counter affidavit filed by the 2nd respondent on 22.11.2006 failed to disclose a legal and rational legitimate basis for the computation, this court found the computation to be contrary to the law declared in ***Sundar v Union of India ([1])*** and directed the 2nd respondent to be present in the court on 27.11.2006 together with a calculation memo worked out in accordance with the declared law.

On 24.11.2006 the 2nd respondent filed yet another counter admitting that the earlier computation was erroneous; was occasioned by the error of the 3rd respondent; and that on verification the total amount due and payable to the petitioner if worked out in accordance with the law declared in ***Sundar*** (supra) came to Rs. 3,07,365/-. The 2nd respondent stated that another cheque dated 23.11.2006 for Rs.2,02,803/- was tendered for deposit to the credit of E.P.26/05. This counter concluded with a ritualistic expression of the respondents' highest regards for this court and apology for the inconvenience caused to this court.

This court places on record its disapprobation of the State's conduct. It has apparently become a habitual practice for State actors to tender unconditional apology for the inconvenience caused to the court. A court is charged under the Constitution to perform an adjudicatory function. Performance of adjudicatory function is thus an obligation of the Constitution. No question of inconvenience arises. The only party wronged by the State's wholly irresponsible conduct as in

this case, is the citizen (the petitioner) whose property is deprived and no compensation paid for well nigh a decade. Such malignant irresponsible conduct of the Executive erodes the public faith in constitutional Government. It is further disturbing that succeeding generations of State actors have failed to realize that such conduct, of reneging on a statutory, legal obligation imperils the foundations of our delicately crafted constitutional order. The insensitivity is demonstrable from the fact that no disciplinary procedure or an internal audit of such administrative unfairness is ever undertaken. None of the counter affidavits on the record in this case deny the fact recorded by this court (in the order dated 18.11.2006) that the petitioner was unlawfully dispossessed of his land on 1.5.1979 (even without an acquisition process initiated under the provisions of the Act). None of the counter affidavits spell out any reason as to why the petitioner was denied the compensation determined and decreed in OP No.17 of 91, till November 2006, and only thereafter on court intervention.

The petitioner has suffered a clear and grievous legal injury. The decree of the reference court is constitutionally ordained to be a charge on the Consolidated Fund of the State. In law, the respondents have no lawful authority to withhold the destination of these amounts (charged on the Consolidated Fund), to the petitioner. Yet, consistently for nearly a decade the respondents by default or design have withheld the amount due and payable to the petitioner as per the law obligated.

As the total amount of Rs.3,07,365/- has been deposited to the credit of E.P.No.26 of 2005 on the file of the Senior Civil Judge, Peddapalli (a) by cheque dated 21.11.2006 for Rs.1,04,562/- already deposited to the credit of the E.P., and (b) by cheque dated 23.11.2006 for Rs.2,02,803/- (tendered); this

court directs the learned Senior Civil Judge, Peddapalli to receive the second cheque dated 23.11.2006 (which shall be deposited on or before 11.12.2006); credit it to the benefit of E.P. 26 of 2005 and to dispose of E.P.No. 26 of 2005 expeditiously, in any even within 30 days from the date of receipt of a copy of this order.

As the counter affidavits filed on behalf of the respondents fail to spell out a just cause or offer any reason whatsoever for the nearly one decade delay in depositing and paying the petitioner the compensation due and payable qua the award of the reference court in OP No. 17/91 dated 13.11.1997, and as the petitioner was constrained not only to file E.P. 26 of 2005 but also constrained to file this writ petition too, the petitioner shall be entitled to costs from the State in an amount of Rs.25,000/- (Rupees Twentyfive thousand only), payable within one week from the date of receipt of a copy of this order. The 1st respondent is however at liberty to order or cause to be ordered appropriate administrative measures to identify the officer/officers responsible for the inordinate and inexplicable delay in paying the compensation due to the petitioner and to proceed departmentally or for recovery of the damages caused by such irresponsible conduct to the State or to prosecute them for any offence cognizable at law.

The writ petition is allowed with costs as above.

Dated: 04.12.2006 ----------

CC in 3 days Justice

G.Raghuram

B/o

Pvsn

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[1] AIR 2001 SC 3516